

**ST. MARY'S COUNTY
BOARD OF COUNTY COMMISSIONERS' MEETING
Tuesday, August 23, 2011**

Present: Commissioner President Francis Jack Russell
Commissioner Lawrence D. Jarboe
Commissioner Cynthia L. Jones
Commissioner Daniel L. Morris
Commissioner Todd B. Morgan
John Savich, County Administrator
Sharon Ferris (Recorder)

**JOINT MEETING OF THE BOARD OF COUNTY COMMISSIONERS AND THE
COMMANDING OFFICER, NAVAL AIR STATION (NAS) PATUXENT RIVER
ENCROACHMENT MITIGATION AND PREVENTION (held at the Frank Knox
Employment Development Center, NAS/PAX River, MD)**

Present: CAPT Stephen Schmeiser, CO, NAS Patuxent River, MD
CAPT Ted Mills, Executive Officer, NAS Patuxent River, MD
Mike Quigley, Executive Director, NAS Patuxent River, MD
Chris Jarboe, Atlantic Test Range Sustainability Officer,
Leroy Mattingly, AICUZ Manager
Ed Ziegler, NDW/PAO
Gary Kessler, Executive Director, NAWCAD
Bob Schaller, Director, Dept. of Economic and Community Development (DECD)
Laura Boonchaisri, Economic Development Coordinator, DECD
Phil Shire, Interim Director, Dept. Land Use and Growth Management;
Jeff Jackman, Senior Planner, Dept Land Use and Growth Management;
Ms. Robin Finnacom, Director, Community Development Corporation

The Commissioners met with the Commanding Officer and representatives of NAS Patuxent River at 9:00 am at the Frank Knox Employment Development Center at NAS/PAX River for the semi-annual encroachment mitigation and prevention meeting.

Capt. Schmeiser provided an update on several NAS topics, including the Enhanced Use Lease (EUL) process, the Joint Land Use Study (JLUS), and upcoming events at the Base. Chris Jarboe, Atlantic Text Range Sustainability Officer, reported that he continues to work with County staff to review residential permits for wind turbines and with the Eastern Shore community to ensure any plans they have for wind turbines are compatible with Navy operations. County staff provided updates on Lexington Park revitalization activities, proposed zoning text amendments for Webster Field AICUZ, and the process for Lexington Park Development District Master Plan Update.

GRAND OPENING OF HOME GROWN FARM MARKET AND DEDICATION OF PATUXENT HABITAT FOR HUMANITY HOME

Following the joint meeting of the Board of County Commissioners and the Commanding Officer, Naval Air Station, Patuxent River, the Commissioners attended the ribbon cutting ceremonies for the Grand Opening of the Home Grown Farm Market, 21078 Three Notch Road, and the Patuxent Habitat For Humanity's "Chief's Build" Home Dedication on Milton Lane, both in Lexington Park.

CALL TO ORDER

Commissioner President Russell called the business meeting to order at 2:20 pm in the Chesapeake Building meeting room, Governmental Center.

ADDITION/DELETIONS TO AGENDA

DELETION: 3:30 pm item from the County Attorney's Office –Rescission of Resolution Authorizing Acceptance of Certificates of Guarantee in Lieu of Surety Bonds or Letters of Credit

APPROVAL OF MINUTES

Commissioner Jarboe moved, seconded by Commissioner Morris, to adopt the minutes of the meeting of Tuesday, August 2, 2011, as presented. Motion carried 5-0.

PROCLAMATIONS WERE PRESENTED FOR WOMEN'S EQUALITY DAY

CALL FOR MOTION TO ENTER INTO EXECUTIVE SESSION

Commissioner Jones moved, seconded by Commissioner Morris, to enter into Executive Session for the purpose of discussing litigation, specifically a public school capacity mitigation agreement. Motion carried 5-0.

EXECUTIVE SESSION

Litigation

Present: Commissioner Francis Jack Russell, President
Commissioner Lawrence D. Jarboe
Commissioner Cynthia L. Jones
Commissioner Daniel L. Morris

Commissioner Todd B. Morgan
John Savich, County Administrator
George Sparling, County Attorney
George Erichsen, Director, DPW&T (for a portion of the meeting)
Donna Gebicke, Recorder

Authority: Article 24, Section 4-210(a)8
Time Held: 2:40 pm – 3:12 pm
Subject Discussed: School Capacity Mitigation Agreement

Commissioner Morgan moved, seconded by Commissioner Jarboe, to accept the conveyance of a portion of FDR Boulevard from Marcos, LLC and authorize Commissioner President Russell to execute the Release and Indemnification agreement upon which the conveyance was conditioned. Motion carried 5-0.

Commissioner Morgan moved, seconded by Commissioner Morris, to accept the offer by Marcos, LLC of settlement of all claims in connection with the Public School Capacity Mitigation Agreement concerning Settler's Landing – Pod 1-First Colony. Motion carried 5-0.

Commissioner Morgan moved, seconded by Commissioner Jones, to direct staff to proceed as discussed in Executive Session in regard to other mitigation agreements. Motion carried 5-0.

COUNTY ADMINISTRATOR

1. Draft Agenda for August 30, 2011. There will be no meeting on September 6, 2011.

2. Sheriff's Office (*CPL William Raddatz*)

Commissioner Jarboe moved, seconded by Commissioner Morgan, to approve and accept the Sex Offender Registration Reimbursement, Project MD1246, from The Department of Public Safety and Correctional Services on behalf of the St. Mary's County Sheriff's Office in the amount of \$25,800 and authorize Commissioner President Russell to execute the related budget amendment to increase the project budget by \$1,000. Motion carried 5-0.

Commissioner Morris moved, seconded by Commissioner Morgan, to approve and authorize Commissioner President to execute the School Bus Safety Grant award, project MD1223, from the Governor's Office of Crime Control and Prevention on behalf of the St. Mary's County Sheriff's Office and execute the budget amendment which will realign the accounts in accordance with the grant award. Motion carried 5-0.

3. Department of Economic and Community Development *(Robert Schaller, Director)*

(Dennis Nicholson, Executive Director, Housing Authority of St. Mary's County)

Commissioner Jones moved, seconded by Commissioner Morris, to approve and authorize Commissioner President Russell to execute the Letter for the Transfer of the St. Mary's County, Maryland Tax Exempt Housing Bond allocation to the Maryland Department of Housing and Community Development's (DHCD) Community Development Administration (CDA), irrevocably transferring \$3,469,227 of the County's On-Behalf-of Tax Credit Bond Allocation for FY2011 to the CDA for use in issuing housing bonds on behalf of St. Mary's County. Motion carried 5-0.

Commissioner Jarboe moved, seconded by Commissioner Morgan to approve the annual Transferable Development Rights Fee-in-lieu value for the Open Lands Trust Fund in the amount of \$20,000 for fiscal year 2012. Motion carried 5-0.

4. Department of Public Works and Transportation *(George Erichsen Director)*

Commissioner Jones moved, seconded by Commissioner Morgan, to approve and authorize Commissioner President Russell to execute the Release and Assignment Form associated with the Lauren's Run Subdivision. The respective \$25,500 will be deposited in the appropriate account for use by the Department of Public Works & Transportation to complete the remaining work of Grading Permit #01-16 as identified by staff; and execute the budget amendment transferring funds in the amount of \$25,500 of appropriation authority from the FIN12 Capital Reserve to the Stormwater Management project HW0503. Motion carried 5-0.

Commissioner Jones moved, seconded by Commissioner Morris, to approve the Energy Efficiency and Conservation Block Grant Agreement amendment under the Clean Energy Communities Program from the Maryland Energy Administration on behalf of the Department of Public Works and Transportation for implementation of cost-effective energy efficiency measures and renewable energy systems on and around local government facilities in the amount of \$16,692 and authorize Commissioner President Russell to execute the related budget amendment that includes increasing Grant funding by \$16,692 using the FIN12 Capital Reserve. Motion carried 5-0.

5. Office of County Attorney *(George Sparling, County Attorney)*

(George Erichsen, Dir., DPW&T; Keith Schukraft, Chairperson, WARM)

Commissioner Jones moved, seconded by Commissioner Morris, to approve and authorize Commissioner President Russell to execute a License Agreement between the Board of County Commissioners for St. Mary's County and WARM for the purpose of allowing WARM to store goods and supplies for the benefit of the association and to conduct meetings at 41515 Hayden Farm Lane, Leonardtown, Maryland. Motion carried 5-0.

6. County Administrator (*John Savich*)

Commissioner Jarboe moved, seconded by Commissioner Morgan, to approve and authorize Commissioner President Russell to execute employment contract for Lori Jennings-Harris, Director, Department of Aging and Human Services. Motion carried 5-0.

Commissioner Morris moved, seconded by Commissioner Morgan, to approve and authorize Commissioner President Russell to execute employment contract for Anthony Jones, Public Information Officer. Motion carried 4-1. *Commissioner Jarboe voted nay, indicating that his vote was not based on Mr. Jones personally, as he is a very qualified individual for the job, but on his desire to see the PIO duties consolidated.*

OFFICE OF THE COUNTY ATTORNEY: DECISION ON PROPOSED AMENDMENT OF RESOLUTIONS NO. W/S 92-01 AND W/S 93-02 RE ALLOCATION OF EQUIVALENT DWELLING UNITS (EDUS) TO MAP 61, PARCEL 126, 44584 TALL TIMBERS RD.

Present: George Sparling, County Attorney
Phil Shire, Interim Director, LUGM

A Public Hearing was held on August 2, 2011, on the proposed amendment to restate the number of equivalent dwelling units of sewerage capacity allocated to Map 61, Parcel 126 (having the street address of 44584 Tall Timbers Road, Tall Timbers, MD.) During the 10-day public comment period, several letters were received in favor of granting the EDUs. The property in discussion, Chief's Bar, formerly known as Shafer's Store, houses a store/bar and post office. Evidence put before the Board at the Public Hearing indicated that the property is entitled to five EDUs, four for the store/bar and one for the post office.

Commissioner Morgan moved, seconded by Commissioner Morris, to amend Resolutions No. W/S 92-01 and W/S 93-02 to restate to five (5) the number of equivalent dwelling units of sewerage capacity allocated to Map 61, Parcel 126, having a street address of 44584 Tall Timbers Road, Tall Timbers, Maryland 20690. Motion carried 5-0.

DEPT. OF LAND USE AND GROWTH MANAGEMENT: DECISION ON PROPOSED ZONING TEXT AMENDMENT TO MODIFY USE TYPE 44, CAMPGROUND AND DAY OR BOARDING CAMP

Present: Yvonne Chaillet, Zoning Administrator,
Phil Shire, Acting Director, Dept Land Use and Growth Management

Notice of Public Hearing was published in *The Enterprise Newspaper* on July 8, and July 13, 2011, and the hearing was held on July 26th to hear public testimony on the proposed zoning text amendment to change Use Type 44, Campground and Day or Boarding Camp from a conditional use to a permitted use in the RPD and CM District for establishment of 20 or fewer campsites. Public testimony was received from three individuals, and during the 10- day open record period, comments were received from one individual. The public hearing that was before the BOCC and the Planning Commission pertained to allowing campgrounds in the Rural Preservation (RPD) District and the Commercial Marine (CM) district as a permitted use for 20 campsites or fewer anything over would remain conditional use. During the Public Hearing, staff was asked to consider making a Campground and Day or Boarding Camp Use Type 44 an accessory use in the CM district.

Following the hearing, staff provided further analysis and is recommending to allow Use Type 44 as accessory use in the CM district only and to keep campgrounds for Use Type 44 as a conditional use in the RPD. It is reasonable to consider a campground as accessory use to a marina because marinas often have one or more accessory uses, such as a restaurant or convenience store. Staff is proposing that accessory standards include that a campground would be an accessory to an existing marina. Accessory in the CM District would not require minimum acreage, campgrounds would require 50 ft setback from property line as accessory in CM district only.

In addition to the accessory standards, accessory would have to follow general standards, which means, 2 toilets, 2 lavatories and 2 showers with hot and cold running water with separate facilities for males and females, and if the property is on septic system, guidelines set forth by the Health Department would apply. Staff is also proposing an accessory use campground be limited to a maximum of 15 campsites, and if a marina wanted more that 15, it would go into conditional use.

The amendment differentiates between conditional standards and accessory standards and sets forth general standards for all campgrounds. This proposed zoning text amendment would streamline the process and review period for existing marina owners desiring to expand their existing campgrounds or establish a new one.

Commissioner Jones moved, seconded by Commissioner Morris, to amend the proposed amendment of the Comprehensive Zoning Ordinance concerning campgrounds as follows:

1. in the caption:

- **delete “A PERMITTED USE IN THE RURAL PRESERVATION DISTRICT (RPD) AND COMMERCIAL MARINE (CM) DISTRICT FOR ESTABLISHMENTS OF 20 OR FEWER CAMPSITES”**
- **and substitute “AN ACCESSORY USE IN THE COMMERCIAL MARINE (CM) DISTRICT”**

2. in the recitals:

- delete “Article 25, § 3 (r) of the *Annotated Code of Maryland*”
- and substitute “Chapter 285 of the *Code of St. Mary’s County, Maryland*”

3. in SECTION I:

- delete “P” in the fourth column and substitute “C”
- delete “P” in the nineteenth column and substitute “C/A”

4. in SECTION II:

- in the heading of subsection 44.a. :
 - delete “for all Campgrounds and Day or Boarding Camps”
- in the heading of subsection 44.b. :
 - delete “for Campgrounds and Day or Boarding Camps Greater than 20 Campsites”
- in subsection 44.b. :
 - delete the existing paragraph
 - and substitute “ (1) In a CM zone, campgrounds greater than 15 campsites shall comply with the conditional standards set forth herein.”
- in subsection 44.a. :
 - delete subsections (2), (9) and (11), and renumber the remaining subsections
- in subsection 44.b. :
 - add former subsections (2), (9) and (11) of subsection 44.a. as new subsections 44.b.(2) through (4)

Motion carried 5-0.

Commissioner Jones moved, seconded by Commissioner Morris, to approve and sign the proposed Ordinance to amend schedule 50.4.44 and section 51.3.44 of Chapter 285 of the *Code of St. Mary’s County, Maryland*, to change use type 44, campground and day or boarding camp, from a conditional use to an accessory use in the Commercial Marine District for campgrounds of 15 or fewer campsites. Motion carried 5-0.

COMMISSIONER’S TIME

The Commissioners highlighted events attended over the past week.

PUBLIC HEARING ON PROPOSED ZONING MAP AMENDMENT TO CORRECT CRITICAL AREA OVERLAY FOR PORTION OF PROPERTY AT TAX MAP 71, GRID 20, PARCEL 246 (BUZZ’S MARINA)

Commissioner Russell opened the Public Hearing at 11:33 am.

Present: Sue Veith, Environmental Planner, Dept. Land Use and Growth Management
Phil Shire, Acting Director, Dept. Land Use and Growth Management
Jeff Jackman, Senior Planner, Dept. Land Use and Growth Management

Ms. Veith entered into the record that notice of the hearing was published in *The Enterprise* on August 5 and 10, 2011, and that the property was posted and letters were sent to all adjacent property owners. She noted that the hearing is to consider a recommendation to correct a map mistake for a prior existing marina use by amending the Critical Area Overlay from Resource Conservation Area (RCA) Critical Area Overlay to Limited Development Area (LDA) Critical Area Overlay on 5.310 acres which is the balance of that portion of parcel which is currently zoned Commercial Marine (CM) with an RCA Overlay.

During the Comprehensive Plan update in 2010, the county realized the critical area LDA overlay for Buzz's Marina property did not actually lie on top of the marine use site. After further research, staff believes the error was made in the original mapping. Based on that error, it was requested that the Commissioners correct that error by making a map amendment. In 2010 all the non-conforming RPD marinas were rezoned to give them a conforming commercial status. When the area was mapped giving commercial zoning, the LDA only covered part of the site – the balance not included is 4.31 acres. The only concern is at the time of original mapping the end of peninsula was agricultural, and it is possible that the Critical Area Commission may request that we use growth allocation for that area because there are houses there that would not have been allowed.

Commissioner Russell opened the Public Hearing for public comment.

Public Comments. *(Comments as noted below are intended as highlights of testimony given and are not verbatim.)*

Laura Clark

- Representing Dennis Point Marina
- Submitted letter to County staff back in June requesting St. Mary's Yacht Center also be considered for this same mapping mistake
- Brought to attention to Staff a few years ago and they acknowledged the mistake and was told it needed to follow growth allocation process
- Applicant chose not to do that because very expensive
- Requested Commissioners consider a similar correction for St. Mary's Yacht Center

ADJOURNMENT

Commissioner Russell closed the Public Hearing and adjourned the Board of County Commissioners meeting at approximately 6:44 pm.

BOCC Meeting of August 23, 2011
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Minutes Approved by the Board of County Commissioners on _____

Sharon Ferris, Senior Administrative Coordinator (Recorder)